

(c) Type 2 POs with financial statements audited annually by their national headquarters may submit a copy of such an audit. If not audited by their national headquarters, the provisions of paragraphs (a) and (b) of this section.

#### **§ 556.12 Taxes.**

POs must comply with all Federal, State, and local tax laws. POs must seek private counsel or contact proper tax officials to ensure compliance with all tax laws. POs located overseas will obtain a statement of clarification from the local office of the Staff Judge Advocate (SJA).

(a) Federal income tax. Certain types of POs (for example, charitable, religious, educational, or scientific) may qualify for exemption from Federal income tax under section 501 of the Internal Revenue Code. Type 2 POs, in which national organizations control taxes for all local chapters, must provide a statement to this effect; it must be signed and notarized by the national headquarters. All other POs will obtain a statement of their tax status from their Internal Revenue Service (IRS) district office.

(b) Federal income tax withholding for employees, Federal employee taxes, and reports on amounts paid. POs must comply with laws that apply and obtain guidance from private counsel or the IRS.

(c) State and local sales, income, occupation, and employer taxes. Local law will determine whether POs—

(1) Must comply with State and local tax requirements, or

(2) Are exempt from State and local tax requirements.

#### **§ 556.13 PO compliance with State or local laws.**

(a) Licensing, certification, or registration with State or local authorities may be required for POs engaging in certain activities such as raffles or insurance operations. In approving a permit to operate, the installation commander will decide whether the PO should request a written statement from State or local commissions as to how State laws, local laws, or other requirements apply. The commander will

consult with the local SJA office in making this decision.

(b) POs are not exempt from State or local law because they operate on Federal property. This regulation does not require licensing, certification, or registration of PO activities unless specifically required by State or local authorities. The licensing requirement applies only in the State containing the Federal property in which the PO operates.

### **Subpart C—Requirements and Procedures for On-Post Operation**

#### **§ 556.14 Overview.**

The following procedures apply to all POs subject to this regulation, except as discussed in §§ 556.15 and 556.16.

(a) *Operating permit.* All POs that operate on DA installations must have an operating permit. POs seeking a permit to operate on a DA installation must apply in writing to the installation commander.

(b) *Documentation.* (1) Application for a permit will include—

(i) A charter, articles of agreement, constitution, or bylaws. (See sample format at figure C-1 in § 556.15.) Private organizations not using one of these documents in the standard format must ensure that all required information is submitted to the installation commander; the PO may provide a separate document, in conjunction with a charter, articles of agreement, constitution, or bylaws, which completes all information required by this paragraph.

(ii) Any other documentation that states the PO's nature, functions, objectives (including planned use of funds), and activities.

(2) Application documentation will—

(i) Define membership eligibility. (The majority of membership will be composed of the DOD family.)

(ii) Set forth responsibilities for all management functions. These functions include accountability of assets, coverage and limitation of insurance, and disposition of remaining assets upon breakup of the PO.

(iii) Include a statement of the PO's liability if assets are not enough to cover all PO liabilities. The statement

of liability will meet all State and jurisdictional laws; it will also address the extent of PO members' personal liability for debts of, or claims against, the PO. State laws governing the liability of national headquarters of type 2 POs generally apply to all local chapters unless specifically superseded by laws of States where local chapters are established.

(3) To operate on a DA installation, type 2 POs must meet the requirements of both their national headquarters and this regulation.

(c) *Revalidation.* All POs must have their operating permits revalidated every 2 years. Requests for revalidation of operating permits will be submitted to the installation commander 90 days before the current permit expires. The letter of application will request continued operation and will include any major changes in PO activities, objectives, organization, or changes in its constitution, bylaws, and so forth. If revalidation is not obtained, the current permit automatically expires 2 years from the date of last approval. Commanders will establish suspense dates for each PO to seek revalidation and will notify POs of these dates.

(d) *Installation review.* Installation commanders will review all PO documentation for both initial permission to operate and for revalidation of operating permits. Approval will be granted or denied based on this review. Approval of an initial or revalidation request will permit a PO to operate on the installation for 2 years. The installation commander may revoke permission to operate at any time during the 2-year period. Written approval will include a statement freeing the installation from any liability of the PO. Installation commanders' reviews of PO applications will ensure the following:

(1) PO income will not personally profit individual members, except through—

(i) Salaries as employees of the PO; or

(ii) Payment for services rendered.

(2) As an exception, the installation commander may authorize an investment club that satisfies all other provisions of this regulation.

(3) PO income will be used to pay operating expenses; expenses include

charitable contributions by the PO and competitive awards to PO members or installation personnel.

(e) *Reporting requirements.* (1) POs will supply the following to the installation commander:

(i) Minutes of PO meetings. POs will submit minutes or summaries of meetings, if required by the installation commander.

(ii) Financial statements. POs with gross annual revenue of \$1000 or more will submit annual financial statements to the installation commander. (The installation commander may require more frequent submission.) Annually, installation commanders will send financial statements of POs whose gross annual revenue exceeds \$100,000 to their major Army command (MACOM).

(iii) A copy of audit reports.

(iv) A copy of tax status, if required.

(v) A copy of correspondence concerning applicability of State or local laws. (See § 556.13.)

(2) Installation commanders will keep a current file on each PO. It will contain the latest copy of—

(i) All reports submitted by the PO, as stated in paragraph (e)(1) of this section.

(ii) The PO's charter, constitution, bylaws, articles of agreement, and so forth. (POs will keep installation commanders informed of changes in officers or points of contact.)

(iii) The PO's request for a permit to operate or for revalidation, and a copy of the installation commander's letter of approval.

(iv) The PO checklist, contained in DA Circular 11-88-1, will be completed per guidance in AR 11-2.

(f) *Termination of PO operation.* A PO may be discontinued by—

(1) The membership; or

(2) The installation commander, who may withdraw permission to operate on the DA installation at any time.

#### **§ 556.15 Recreational and educational POs.**

Certain POs may operate on DA installations as extensions of APF or NAF recreational or educational activities. Such POs need not fulfill the procedural requirements of § 556.14, although they are subject to all other